

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN

LACAHRO J BRIDGEFORTH,

Petitioner,

v.

Case No. 10-C-322

UNITED STATES OF AMERICA,

Respondent.

ORDER

This matter came before the Court for an evidentiary hearing on January 26, 2011. Upon consideration of the testimony and other evidence offered during the course of the hearing, the Court found that the petitioner had failed to establish ineffective assistance of counsel. In particular, the Court found that petitioner had never asked his attorney to file a notice of appeal within the time allowed and, in fact, had expressly declined to appeal when counsel explained to him his right to do so. The Court finds not credible the petitioner's contention that he was confused and thought that his appeal was intertwined with a motion under Fed. R. Crim. P. 35 that he anticipated the Government would file. Based upon these findings, the petition for relief under 28 U.S.C. § 2255 will be denied.

Defendant must have a certificate of appealability if he is to appeal this denial of his petition for post conviction relief brought pursuant to 28 U.S.C. § 2255. *See* 28 U.S.C. § 2253(c)(1)(A); Fed. R. App. P. 22; Rule 11 Governing § 2255 Proceedings. Such a certificate shall issue "only if the applicant has made a substantial showing of the denial of a constitutional right." § 2253(c)(2). Before issuing a certificate of appealability, a district court must find that the issues the applicant

wishes to raise are ones that “are debatable among jurists of reason; that a court could resolve the issues [in a different manner]; or that the questions are adequate to deserve encouragement to proceed further.” *Barefoot v. Estelle*, 463 U.S. 880, 893 n. 4, 103 S.Ct. 3383, 77 L.Ed.2d 1090 (1983). Here I conclude that Petitioner has not made a substantial showing of the denial of a constitutional right and the issues Petitioner presents do not deserve encouragement to proceed further. Therefore I will deny a certificate of appealability.

THEREFORE, IT IS ORDERED the petition for relief under 28 U.S.C. § 2255 should be and the same hereby is **denied**.

IT IS FURTHER ORDERED that a certificate of appealability is **denied**.

Dated this 26th day of January, 2011.

s/ William C. Griesbach
William C. Griesbach
United States District Judge